



GRANT COUNTY  
WATER CONSERVANCY BOARD  
Application for Change/Transfer

For Ecology Use Only
Received <b>RECEIVED</b>
<b>FEB 15 2013</b>
Date Stamp DEPARTMENT OF ECOLOGY EASTERN REGIONAL OFFICE

**Record of Decision**

Applicant: Segale Properties LLC

Application Number: GRAN-11-22

This record of decision was made by a majority of the Board at an open public meeting of the Grant County Water Conservancy Board held on January 24, 2013. The undersigned board commissioners certify that they each understand the board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that each commissioner, having reviewed the report of examination, knows and understands the content of the report.

☒ **Approval:** The Grant County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on Feb 14, 2013 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Grant County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on \_\_\_\_\_ and submits this record of decision to the Department of Ecology for final review.

SIGNED:

David Stevens

David Stevens, Commissioner  
Grant County Water Conservancy Board

Date: 2-14-2013

Approve	<input type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input checked="" type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

W Ron Baker

W. Ron Baker, Chairman  
Grant County Water Conservancy Board

Date: 2-14-2013

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Keith Ellis

Keith Ellis, Commissioner  
Grant County Water Conservancy Board

Date: 2-14-2013

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Kenneth Enns

Kenneth Enns, Alternate Commissioner  
Grant County Water Conservancy Board

Date: 2/14/2013

Approve	<input checked="" type="checkbox"/>
Deny	<input type="checkbox"/>
Abstain	<input type="checkbox"/>
Recuse	<input type="checkbox"/>
Other	<input type="checkbox"/>

Mailed with all related documents to the Dept of Ecology Eastern Regional Office, and other interested parties on Feb 14, 2013.

040-105(02/08)

Record of Decision No. GRAN-11-22

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY). Ecology is an equal opportunity employer





Grant County  
WATER CONSERVANCY BOARD  
Application for Change/Transfer  
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF  
THE STATE OF WASHINGTON

RECEIVED

FEB 15 2013

DEPARTMENT OF ECOLOGY  
EASTERN REGIONAL OFFICE

Report of Examination

**NOTE TO APPLICANT:** Pursuant to WAC 173-153-130(8), the applicant is not permitted to proceed to act on the proposal until Ecology makes a final decision affirming, in whole or in part, the Board's recommendation. It is advised that the applicant not proceed until the appeal period of Ecology's decision is complete.

**NOTE TO AUTHOR:** Read the instructions for completing a water conservancy board report of examination. Use the F11 key to move through the form.

☐

Surface Water

☒

Ground Water

DATE APPLICATION RECEIVED November 23, 2011	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc.) CG3-28949C@2	WATER RIGHT PRIORITY DATE February 7, 1991	BOARD-ASSIGNED CHANGE APPLICATION NUMBER GRAN-11-22
--	---	---	--

NAME Segale Properties LLC	(CITY) Tukwila	(STATE) WA	(ZIP CODE) 98138
ADDRESS (STREET) PO Box 88028			

**Changes Proposed:** ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal  
☒ Add point(s) of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

**SEPA**

The Board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 800 gpm	MAXIMUM ACRE-FT/YR 230	TYPE OF USE, PERIOD OF USE 230 ac-ft/yr for the seasonal irrigation of 61.7 acres.				
SOURCE Three (3) Wells			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222000	NE	NW	26	21 N	24 EWM	41	Grant
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
E1/2NW1/4 of Sec. 26, T. 21 N., R. 24 E.W.M.							
Grant County Parcel Nos.151222002 and 151222000.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.		RANGE,	
See above.	E1/2	NW1/4	26	21 N		24E	

Proposed Use

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE				
	800 gpm	280	280 ac-ft/yr for the seasonal irrigation of 80 acres.				
SOURCE			TRIBUTARY OF (IF SURFACE WATER)				
Six (6) Wells							
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
RETAIN EXISTING:							
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222000	NE	NW	26	21 N	24 EWM	41	Grant
ADD PROPOSED:							
ptn 170034000	SE	NE	20	17 N	28 EWM	41	Grant
ptn 170034000	NE	NW	20	17 N	28 EWM	41	Grant
ptn 170033000	NW	NE	19	17 N	28 EWM	41	Grant



LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED					
RETAIN EXISTING <u>In T. 21 N., R. 24 E.W.M.</u>  E1/2NW1/4 of Sec. 26, T. 21 N., R. 24 E.W.M.  ADD PROPOSED <u>In T. 17 N., R. 28 E.W.M.</u>  N1/2NE1/4 and North 165 feet of S1/2NE1/4 of Sec. 19, T. 17 N., R. 28 E.W.M.					
RETAIN EXISTING Grant County Parcel Nos.: 151222002 and 151222000. ADD PROPOSED Grant County Parcel Nos.: ptn 170033000.					
PARCEL NO. See above.			SECTION See above.	TOWNSHIP N. See above.	RANGE, See above.

Board's Decision on the Application

MAXIMUM CUB FT/ SECOND	MAXIMUM GAL/MINUTE 800 gpm	MAXIMUM ACRE-FT/YR 230 ac-ft/yr	TYPE OF USE, PERIOD OF USE 107.5 ac-ft/yr to preserve groundwater resources*, and 122.5 ac-ft/yr for the seasonal irrigation of 35 acres.				
SOURCE Six (6) Wells			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
RETAIN EXISTING:							
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222000	NE	NW	26	21 N	24 EWM	41	Grant
ADD PROPOSED:							
ptn 170034000	SE	NE	20	17 N	28 EWM	41	Grant
ptn 170034000	NE	NW	20	17 N	28 EWM	41	Grant
ptn 170033000	NW	NE	19	17 N	28 EWM	41	Grant
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
RETAIN EXISTING <u>In T. 21 N., R. 24 E.W.M.</u>  E1/2NW1/4 of Sec. 26, T. 21 N., R. 24 E.W.M.  ADD PROPOSED <u>In T. 17 N., R. 28 E.W.M.</u>  N1/2NE1/4 and North 165 feet of S1/2NE1/4 of Sec. 19, T. 17 N., R. 28 E.W.M.  TRUST WATER RIGHT  Within the ground water aquifer in Grant County, Washington.							
RETAIN EXISTING Grant County Parcel Nos.: 151222002 and 151222000. ADD PROPOSED Grant County Parcel Nos.: ptn 170033000.							
PARCEL NO. See above.			SECTION See above.	TOWNSHIP N. See above.		RANGE, See above.	

\*NOTE: By letter dated November 16, 2011, Ecology accepted a trust water right enrollment of part of the water right, "to benefit the ground water aquifer in Grant County, Washington" from December 1, 2011 to June 30, 2016. The trust donation was for 450 gpm, 157.5 ac-ft/yr for irrigation of 45 acres. The decision by the Board is not adding this purpose to the water right, but is only noting the enrollment now in place. The Board is making a tentative determination that part of the annual volume originally issued to Certificate G3-28949C is not valid. The trust amounts given above, for annual volume and acres, shall be reduced so the total amount of the water right remaining with Segale Properties plus the donated portion of the right do not exceed the Board's tentative determination.



DESCRIPTION OF PROPOSED WORKS

Pumps, mainlines, and equipment to irrigate up to 35 acres in a new location from three existing wells. The remainder of the water right was previously enrolled in the state trust water right program under change No. CG3-28949C@1.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: Begun	COMPLETE PROJECT BY THIS DATE: December 1, 2014	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: December 1, 2016
--------------------------------------	--	---

REPORT

BACKGROUND [See WAC 173-153-130(6)(a)]

On October 21, 2011 Segale Properties LLC filed an application for change to add three well sites and change the place of use to add a place of use area without increasing irrigated acres under Water Right Certificate No. G3-28949C. The application was accepted at an open public meeting on November 23, 2011, and the Board assigned application number GRAN-11-22. The Department of Ecology (Ecology) assigned No. CG3-28949C@2.

Concerning the place of use, the applicant requests to move 35 irrigation acres to be used within a 90 acre area on the Frenchman Hills. The current place of use, which is 80 acres in size, would be retained as a place holder for the portion of the water right that was donated to the trust program, which is not being transferred.

Concerning the currently authorized well sources, they will continue in use for other rights held by the property owners Peter A. and M. Catherine Beaumont, but will not be used for G3-28949C during the trust enrollment. The 35 water right acres being transferred will be supplied by three existing wells owned by the applicant Segale Properties LLC.

No added purpose, change in purpose or change in number of acres to be irrigated is requested.

Attributes of the water right as currently documented

Name on certificate, claim, permit: Randy Tastad and Riley J. Cissne.  
Water right document number: Certificate No. G3-28949C issued January 12, 1998.  
As modified by certificate of change number: n/a.  
Priority date, first use: February 7, 1991.  
Water quantities: Qi: 800 gallons per minute (gpm) Qa: 280 acre-feet/year (af/yr or ac-ft/yr).  
Source: Three (3) wells (Site#3 below added by Showing of Compliance process under RCW 90.44.100(3)).  
Point of diversion/withdrawal:

- Site#1 NE1/4SE1/4NW1/4 1250 ft N and 100 ft W of center Sec. 26, Beaumont "Well D".  
S.26, T21N, R24E
- Site#2 NW1/4NE1/4NW1/4 100 ft S and 1200 ft W from N1/4 corner Sec. 26, Beaumont "Well C".  
S.26, T21N, R24E
- Site#3 SE1/4NW1/4 75 ft N and 100 ft W of center Sec. 26, Beaumont "Well E".  
S.26, T21N, R24E

Purpose of use: 280 af/yr to be used for seasonal irrigation of 80 acres.  
Period of use: Seasonally.  
Place of use: E1/2NW1/4 of Sec. 26, T. 21 N., R. 24 E.W.M.

Existing provisions:

At such time that the Department of Ecology determines that management of the subject waters is necessary and in the public interest, an approved measuring device shall be installed and maintained in accordance with RCW 90.03.360 or WAC 508-64-020 through WAC 508-64-040.

The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified.

This authorization to make use of public waters of the state is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.

Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.

All water wells constructed within the state shall meet the minimum standards for construction and maintenance as provided under R.C.W. 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells).



An access port, airline and pressure gage shall be properly installed and maintained in working order.

That portion of this authorization relating to irrigation is classified as a Family Farm Certificate in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm – a geographic area including not more than 2,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 2,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.

#### *Tentative determination of the water right*

The tentative determination is provided on the front page of this report.

#### *History of water use*

The Board reviewed information provided by the Beaumonts, which included a declaration of Pete Beaumont dated October 12, 2012, a notebook containing aerial imagery, invoices and well power use information. In addition, Segale representatives and the Beaumonts attended some Board meetings and discussed the history of water use. Pete Beaumont also had some knowledge of water use by the prior owners of the subject water right, chiefly Randy Tastad. On October 11, 2012 Segale and the Beaumonts gave a presentation to the Board that included a timeline of the Beaumonts' history of insufficient supply of water. The Beaumonts reported that they first experienced a water supply problem in the year 2000 season, when one of their wells associated with a different water right (Well A, NW1/4NW1/4 Sec. 26, T. 21 N., R. 24 E.W.M.) stopped pumping due to lowered water level. The Beaumonts made an informal arrangement to use water from wells supplying the subject water right certificate (Wells C and D, then owned by Tastad), because these were adjoining farms and Beaumonts had a valuable orchard crop awaiting harvest. As recounted by Peter Beaumont, there was a resulting shortage of water during each of the following years which they tried to address in a variety of ways. Any non-use was due to the shortages and the Beaumonts stated they would have grown higher value / higher yield crops if they would have had a full water supply available.

According to the historical information provided, the most recent, highest level of use prior to the water becoming unavailable was during the year 1999. The certificate had been issued during the year before, in 1998, after Ecology had completed its proof examination. According to Pete Beaumont in 1999 the water right was irrigated in apple orchard and a field crop, either wheat or potatoes.

Two properties make up the Beaumont farm: 120 acres on the west, also called the Sherbenou property, and 80 acres on the east, also called the Tastad property. The Tastad property is where the water right certificate is located. In 1990 the Beaumonts leased orchard on the west part of the farm from Loren Sherbenou. The Beaumonts were told that the main irrigation well there (Well A) was one of the best in the area, and that it had produced 600 gpm when drilled, the limit of the testing equipment. In 1992 the Beaumonts purchased the Sherbenou property.

In the late 1990's the west and east properties were supplied for irrigation by three water right certificates: Nos. G3-23865(A)C (most recent certificate issued August 1992), G3-28551C (certificate issued Jan 1998), and G3-28949C (certificate issued Jan 1998). G3-23865(A)C and G3-28551C issued for a total of 65 acres of irrigation generally within the west half of the quarter section (West Certificates); and G3-28949C issued for 80 acres of irrigation within the east half of the quarter section (East Certificate). In the late 1990's, the wells supplying water to these certificates were: Well A and B (the only authorized sources for the West Certificates), and Wells C and D (the only authorized sources for the East Certificate). According to Pete Beaumont, Wells A and B (West) and Wells C and D (East) provided the full amount of water needed in the late 1990's.

In August 2000, Well A, which supplied an apple orchard located on the Sherbenou (West) property, began "sucking air" as the water level went below the pump intake. The Beaumonts hired a pump company to lower the pump in the well so they could continue irrigating that season. In the summer of 2001, Well A went dry again. The Beaumonts hired a contractor to pull the pump and had a video scan of the well done to look for problems. The water level had dropped so the Beaumonts hired a drilling contractor to deepen the well to improve the water supply. By September 10, 2001 the Beaumonts told the driller to stop after deepening by 460 feet (about 820 feet total depth) because they did not find added water. Well B, the other well authorized under the West Certificates, produced about 50 gpm and was not able to supply the needs of the orchard located on the Sherbenou property. The loss of Well A was causing the west orchard to go into stress right before harvest. When the well went dry the Beaumonts needed water on an emergency basis. They rented mainline from Lad Irrigation to pipe water from Wells C and D (located on Tastad (east) property) to the Sherbenou property to keep the trees alive. At that time the orchard on the Sherbenou property was mature and produced a high yield, while the orchard on the Tastad property was relatively young. Mr. Tastad was willing to share his water in order to help save the Beaumonts' orchard. In this manner the Beaumonts kept the orchard alive, however some trees took three years to come out of the stress caused by the lack of water. At this time Well C was producing about 100 gpm and Well D was producing about 700 gpm so it was not possible to irrigate both the Tastad (east) and the Sherbenou (west) properties at the same time, therefore the Beaumonts gave priority to the higher value crop on the Sherbenou property.



On March 14, 2001, Governor Gary Locke authorized Ecology to declare a statewide drought emergency. Weather conditions across the State were unusually dry, which put more demands on groundwater aquifers, and added to the needed irrigation amounts for crops. According to Ecology drought information, 2001 was the second driest year on record for Washington state.

In November 2001, the Beaumonts filed a Showing of Compliance Form with Ecology intended to authorize the use of Well D (a supply source for G3-28949C, East Certificate), as a point of diversion for use under the West Certificate G3-28551C. According to Pete Beaumont in 2005 he learned that this was not the correct paperwork to use for this purpose. Instead, they should have filed a change of water right application to formally approve the use of Well D on the west property. The Beaumonts submitted two change applications in 2005, which were approved by Ecology in 2006 and 2007, as discussed further below.

In 2001 and 2002, the west orchard was producing apples, however the east orchard served by Wells C and D was a young orchard and not yet producing apples. The east area consisted of approximately 13 acres of orchard in two corners and about 49 acres under center pivot: about 25 acres of those under pivot were also in orchard (south portion of pivot) and the northern 24 acres or so were farmed in either wheat or potatoes; for a total of 62 acres irrigated. During 2001 Peter Beaumont managed the water for the East Certificate as part of a water sharing agreement with Randy Tastad, who at that time was the owner of Wells C and D. In this informal agreement the Beaumonts were able to secure the cooperation of Randy Tastad to allow use of Wells C and D on the Sherbenou (west) property during the last part of 2001, as mentioned above, and also during 2002.

Mr. Beaumont recalled that during the end of the 2001 irrigation season and for 2002, Well B was used for the Sherbenou (west) property, and Wells C and D were used to supply both the Sherbenou and Tastad properties. The Beaumonts did not have a full supply of water to meet all cropping needs during this time due to the loss of Well A and they prioritized the available water supply to the west property to try to have income despite the water shortage.

In November 2001, the Beaumonts hired Northwest Aquifer Surveying Service to help pick a well site by a geophysical method called "sounding" to replace the lost water. In December 2001, the Beaumonts hired Robinson & Noble, a hydrogeology firm, to help select a well site to replace lost water. In December 2001, the Beaumonts paid Randy Tastad for the use of his water during the past summer and discussed purchasing his 80 acres (east property). The Beaumonts felt that purchasing Randy Tastad's land with its water right and wells (C and D) could help with the water availability issues.

In April 2002, the Beaumonts purchased the Tastad property, together with water right G3-28949C and Wells C and D. After this purchase, the Beaumonts farmed both the west and east properties. According to Pete Beaumont, during 2002-2004 they had to partially close the valve on the discharge from Well C to keep it from pumping the water level below the pump bowls. In June 2003, based on advice of both hydrogeology consultants, the Beaumonts drilled a well a short distance north and west of the center of Section 26, T21N, R24EWM, within the SE1/4NW1/4. This was called Well E. According to Pete Beaumont, in 2003 Well C had a 100 gpm capacity, and Well D had a 600 gpm capacity, and Well E was estimated to be able to pump 300-400 gpm. The Beaumonts intended to use these wells to provide the 800 gpm flow rate allowed by G3-28949C and also to supply other demands to the extent possible.

In June 2003, the Beaumonts filed a Showing of Compliance form with the Department of Ecology to add Well E as a source for G3-28949C. They understood that Wells C, D and E were the authorized sources for G3-28949C after this time.

On or around 2002 at the Tastad (east) property the Beaumonts pushed out the orchard under the pivot due to the lack of water, but retained the orchard in the corners. This allowed them to plant cropping under the pivot that could tolerate water shortages. According to Pete Beaumont this was a business strategy to allow them to maximize high value cropping in light of the lack of available water, so they could generate income to fund remedies for the problem. Due to the continued water shortage and lack of success getting replacement water, they fallowed the acres under the pivot during 2003 through 2004 while trying to get a new well in operation (Well E). During this time, Wells A and B continued to be the formally authorized sources for the West Certificates, though Well A produced no water and Well B, though it had delivered 80 gpm in 1984, it had decreased to a negligible amount by 2005.

During 2003, the Beaumonts made numerous improvements to pumps and did various work to keep trying to maintain or improve the water supply, including the purchase and installation of a pump in the new Well E. In 2004 they had trenching done and power extended to Well E, had a pad poured, had the electrical panel installed and worked on or installed a new pump in Well D. At this time Mr. Beaumont saw evidence of possible water level declines as pumps were pulled and worked on.

According to Pete Beaumont, in 2004, the original pumping capacity of Well E was 200 gpm, but pumped dry in a couple of days. Around 2003 they began to suspect that the water level in Well C was declining. They discontinued use of Well C in 2004 because it could not sustain pumping and the pump motor became overheated and damaged again due to this problem.

Mr. Beaumont stated that in spite of these problems they continued to try to use as much water as they could for irrigation of crops. In 2005 Mr. Beaumont stated that he used as much water as they could under the center pivot on the Tastad (east) property by watering early when the orchards did not require as much water. In this manner they were able to supply water to the high value orchard crop on the Sherbenou (west) property because the Tastad property was being used only partly on permanent crops: about 13 acres of orchard and about 49 acres of field cropping (62 acres total). The field cropping was



irrigated by a center pivot running through a partial radius. The center pivot could be run with as much or little water as was available, and the cropping chosen at that time was meant to be adaptable to the available water. With more water applied, they got better forage for pasture for example, and with less water there was less crop vigor. They used this approach to irrigate wheat in 2005, 2006, 2007, 2008 and 2009.

The year 2005 was another severe drought year. Governor Christine Gregoire authorized Ecology to declare a statewide drought emergency on March 10, 2005. By March, much of eastern Washington was experiencing severe drought conditions, according to National Drought Mitigation Center mapping of conditions and displayed on Ecology's drought information web page.

During 2005, the Beaumonts had Lad Irrigation company work on the new Well E pump, and had them upgrade the Well D pump. Since August 2000 they had used Well D with a small contribution from Well B to irrigate the west orchard lands when Well A was failing. (They had filed a Showing of Compliance form to add Well D back in November 2001). Mr. Beaumont learned in 2005 that a change of water right form would have been the correct process to use, in order to add Well E to G3-28551C (west). In August 2005, the Beaumonts submitted a change application on G3-28551C to change the source to be Well D only. In December 2005, they filed a change application on G3-23865(A)C (west) to change the source to be Well D only, as with G3-28551C (also west).

Ecology approved both of these changes by late 2007 so that for G3-23865(A)C and G3-28551C, the Beaumonts had received formal authorization to use Well D to supply the Sherbenou property. The change to add Well D for G3-23865(A)C was approved by Ecology on June 8, 2006 and the change to add Well D for G3-28551C was approved by Ecology on September 19, 2007.

The Beaumonts held a fourth water right, No. G3-28950P, which authorizes supply to nine homes. With the irrigation supply problems they decided to try to prioritize the development of this project in order to help raise funds to attempt to remedy the water shortage. In 2006 they submitted a preliminary subdivision application for the Beaumont Subdivision and in June 2006 they filed a change application to amend the permit place of use to match with the subdivision application. The Beaumonts' project was affected by the severe recession in 2007 and the housing project was no longer seen as a way to raise funds short term.

Expenses related to the efforts to solve the water shortage problems are documented at over \$200,000, which does not include all costs to the Beaumonts such as crop value reductions due to lack of water.

In summary, the West and East Certificates were in use to their maximum extent collectively prior to the year 2000, consistent with the water rights. From 2001 through 2003, Wells C and D (with a small contribution from Well B through about 2005) supplied all of the irrigation water rights because water was not available from Well A or in any significant amount from Well B. After 2004 Well C no longer worked due to a lowered water level, lack of production, and resulting motor damage. Well E was drilled in 2003 to try to replace lost water, however due to problems with water levels the Beaumonts were unable to get it running consistently until 2008. The capacity of Wells C, D and E combined wasn't sufficient to fully use the West and East Certificates. After making repeated attempts to develop a reasonable-cost supply of water on site, considering the economic challenges of the times, and after experiencing two severe droughts (2001 and 2005), the Beaumonts decided by 2009 that it would be best for some of the water rights to be used elsewhere so as not to continue pulling from a declining aquifer. The Segale party was interested in obtaining a water right and so the Beaumonts decided to sell. In addition, by selling the water right the Beaumonts reasoned that it would help them raise funds to reinvest in better securing the supply for the remaining rights. Segale made application to transfer water rights under G3-28949C to their property, and also enrolled a portion of the water right in the state trust water right program, with an acceptance date to the trust program of December 1, 2011.

#### *Previous changes*

There have been no changes to the water right under authority of RCW 90.03.380 following its issuance on January 12, 1998. In 2003, however, a third well was drilled in response to a shortage of water, with the intent to supply the subject certificate as an added well; and a Showing of Compliance form was filed with Ecology on June 25, 2003 for this purpose. This well (Beaumont Well E) was therefore added as a source to the subject water right under statutory authority of RCW 90.44.100(3).

#### *SEPA*

The Board has reviewed the proposed project in its entirety. The requested changes involve less than 2250 gpm and are considered categorically exempt (WAC 197-11-800(4)). The Board has determined that SEPA compliance is satisfied.

#### *Other*

See Investigation Section describing proposed plans and specifications.

**The information or conclusions in this section were authored and/or developed by Tim Reierson.**



**COMMENT AND PROTESTS** [See WAC 173-153-130(6)(b)]

Public notice of the application was given in the Columbia Basin Herald on February 24 and March 2, 2012. The protest period ended on or around April 1, 2012. There were no protests received during the 30 day protest period. In addition, no oral or written comments were received at an open public meeting of the Board or other means as designated by the Board.

This application for change Public Notice was sent to the Eastern Washington Council of Governments, the Washington State Department of Fish and Wildlife, and the Washington State Department of Archaeology and Historic Preservation by email notification.

No comments have been received.

Date: n/a.

This was recognized by the Board as a ☐ Protest ☐ Comment n/a.

Name/address of protestor/commenter: n/a.

Issue: n/a.

Board's analysis: n/a.

*Other*

n/a.

**The information or conclusions in this section were authored and/or developed by Tim Reierson.**

**INVESTIGATION** [See WAC 173-153-130(6)(c)]

The following information was obtained from technical reports, research of department records, information provided by the applicant and the Beaumonts, who are the landowners of the current place of use and owners of the current well sources. A site inspection on January 24, 2013 was conducted by members of the Board.

*Proposed project plans and specifications*

*PROPOSAL SUMMARY*

This project results from a sale of the entire water right from the owners of the current place of use and wells, the Beaumonts, to Segale Properties LLC. The Beaumonts will retain ownership of their land and wells. Segale Properties LLC is requesting to transfer a portion of the water right to existing farmland that is being developed on the Frenchman Hills. The current water right site (Beaumonts) is located about four miles north and four miles east from Quincy, Washington. The destination site place of use for the transfer (Segale) is located 31 miles to the southeast. This location is 1 1/2 miles southwest of the south-most point of Potholes Reservoir.

The current and proposed well sites are described in **Table 1**.

Table 1. Current and Proposed Well Sites.

Well	Depth	Location	Date Completed	Construction Details
Beaumont Well C	330 ft	NE1/4NW1/4 Sec. 26, T. 21 N., R. 24 E.W.M.	10/5/1993	10 inch casing to 175 feet, well log for deepening states basalt from 175 to 330 feet. May be deepening of reported 12 inch 174 1/2 feet deep well drilled in 1983, which penetrated basalt from 7 ft to full depth except for 5 feet of clay near the bottom of the hole.
Beaumont Well D	410 ft	SE1/4NW1/4 Sec. 26, T. 21 N., R. 24 E.W.M.	10/22/1980	14 inch casing to 94 feet with 8 inch liner from 263-283 ft. primarily basalt from 6 feet to total depth.
Beaumont Well E	476 ft	SE1/4NW1/4 Sec. 26, T. 21 N., R. 24 E.W.M.	June 2003	AHJ191. 8 inch casing to 321 feet, basalt from 6 feet to total depth.
Segale Well 3		SE1/4NE1/4 Sec. 20, T. 17 N., R. 28 E.W.M.	8/9/1997 2/26/1998 (casing)	AAP544. 16 inch casing to 653 feet, total depth 1005 in basalt.
Segale Well 4		NE1/4NW1/4 Sec. 20, T. 17 N., R. 28 E.W.M.	8/19/2003	AHP796. 14 inch casing to 954 feet, total depth 1713 feet in basalt.
Segale Well 6		NW1/4NE1/4 Sec. 19, T. 17 N., R. 28 E.W.M.	1/26/2011	AAS155. 20 inch casing to 801 feet, total depth 2497 feet in basalt.

Part of the water right (450 gpm, 157.5 ac-ft/yr for irrigation of 45 acres) was enrolled in the state trust water right program effective December 1, 2011 through June 30, 2016 (Ecology No. CG3-28949C@1). The remainder of the water right is the part requested for transfer to the Segale Frenchman Hills farm site:

Quantities requested for transfer: 350 gpm, 122.5 ac-ft/yr for seasonal irrigation of 35 acres.



This is an average water duty of 3.5 feet, which is suitable for high duty cropping such as corn, hay, double-crop combinations, and orchard. This is consistent with Segale's farm plan for the site for row or permanent cropping.

The part of the water right being transferred is proposed to be withdrawn from three existing wells (Segale Wells 3, 4 and 6 described in **Table 1** above).

#### *ESTIMATE OF BENEFICIAL USE*

Because the history of use was affected by lack of water availability, it is necessary to estimate the beneficial use prior to the shortage of water which began in late 2000. The year 1999 is therefore of interest. The Beaumonts did not own the property at the time, however they farmed the adjacent ground and began using water from Wells C and D in 2000 as outlined in the use history. To the best of Pete Beaumont's recollection, during 1999 the center pivot was farmed in either wheat or potatoes in the northern portion, and was in orchard in the south portion. The center pivot was an old generation machine with overhead sprinklers, covering a partial rotation (wiper) totaling 48.8 acres of irrigation. The two areas of orchard outside of the center pivot were also farmed, with sprinkler irrigation. Based on aerial photo evidence along with Farm Service Agency identified field acres, the areas cropped would have been: 12.9 acres apple orchard, sprinkler irrigation; 20 acres apple orchard under center pivot; and 28.8 acres wheat or potatoes under center pivot. The evidence supports a total irrigation area of 61.7 acres, which is less than the certificate allowance of 80 acres.

According to Mr. Beaumont, the center pivot sprinkler package ran with approximately 700 gpm, with the balance of 100 gpm allowed by the water right able to be delivered to the separate orchard blocks (12.9 acres) using both wells C and D. Mr. Beaumont noted that the full flow rate tended to drop off after he acquired this property and in subsequent years the 800 gpm was not sustainable for long periods of time, however it appears that the flow rate was available prior to 2000 when Mr. Beaumont began using Wells C and D on both farm areas.

Power records are not available for 1999, and water meters were not installed at that time. An estimate of water use can be made using expected crop demands for the local area. The Washington Irrigation Guide (WAIG) provides a standard reference for this purpose. Using Quincy station climate data, the crop demands are: 27 inches for wheat, 30 inches for potatoes, 47 inches for apple orchard with cover crop, and 36 inches for apples without cover.

The cover crop was not known to have been intensively cultivated and so an intermediate value of 42 inches is used for the orchard. The wheat and potato predicted demands are similar. Due to the uncertainty whether wheat or potatoes were farmed in 1999, the value for wheat will be used as a conservative estimate of beneficial use. For undertree sprinklers, an application efficiency of 75% is reasonable. For center pivot with overhead sprinklers, an application efficiency of 80% is reasonable. These are within Ecology guidelines.

The resulting predicted duties for applied water are: 34 in (2.8 ft) wheat; 52.5 in (4.4 ft) orchard under pivot; 56 in (4.7 ft) orchard with undertree sprinklers. Multiplying each by the acreage figures above yields a total of  $(2.8\text{ft} \times 28.8\text{ac}) + (4.4\text{ft} \times 20\text{ac}) + (4.7\text{ft} \times 12.9\text{ac}) = (81) + (88) + (61) = 230$  ac-ft of beneficial use for irrigation. This is less than the certificate allowance of 280 ac-ft.

In summary, the estimated beneficial use prior to physical water shortages is quantified from year 1999 usage and cropping as: 800 gpm and 230 af/yr for irrigation of 61.7 acres. Of this amount, 350 gpm, 122.5 af/yr for irrigation of 35 acres is requested for transfer to the Segale Frenchman Hills farm location.

#### *CURRENT AND TRANSFER AQUIFER*

For groundwater right transfers, state law requires that the additional wells shall tap the same body of public groundwater as the original wells. RCW 90.44.100(2a). This report subsection explains the administrative and hydrogeologic setting for the subject transfer, which is within an administrative area known as the Quincy groundwater subarea. The following explanations of the Quincy subarea and rules were taken largely from standard Ecology language used in other recent reports.

The boundaries of the Quincy Ground Water Management Subarea are defined in Chapter 173-124 Washington Administrative Code (WAC). The Quincy subarea lies mostly within Grant County, covering the northern portion of the Columbia Basin Project, a project of the U.S. Department of Interior, Bureau of Reclamation.

Much of the Quincy subarea is underlain by unconsolidated sediments and/or sedimentary rocks. The sediments and sedimentary rocks comprise the "Quincy unconsolidated zone" as defined in WAC 173-124-050. The thickness of the Quincy unconsolidated zone generally varies from a few feet to several hundred feet, and is absent in places.

The sediments and sedimentary rocks of the Quincy unconsolidated zone overlie a thick sequence of basalt flows identified as the Columbia River Basalt Group. The Columbia River Basalt Group is subdivided into three formations, shallower to deeper, as the Saddle Mountains Basalt, the Wanapum Basalt, and the Grande Ronde Basalt Formations. All Columbia River Basalt Group basalt rock flows in the Quincy subarea are assigned to the "Quincy basalt zone", as defined in WAC 173-124-050. The Quincy basalt zone varies from a few hundred feet to several thousand feet thick.

Two groundwater management units, the "shallow management unit" and the "deep management unit", were established for the Quincy subarea in WAC 173-134 (which was subsequently repealed and then amended and adopted as WAC 173-134A). The shallow management unit is defined as groundwater hydraulically continuous between land surface and a depth of 200 feet into basalt of the Columbia River Basalt Group (i.e., it includes all of the Quincy unconsolidated zone and the uppermost 200 feet of the Quincy basalt zone). The deep management unit is defined as all groundwater underlying the shallow management unit (i.e., it includes the entire Quincy basalt zone with the exception of the uppermost 200 feet of that zone).



Based on the location of the wells, the construction details of the wells as summarized in **Table 1**, and the depth of the wells; it is concluded that all of the current wells and the proposed added wells are constructed to withdraw from the deep management unit of the Quincy subarea. In addition, all well sites are located within the Gray Area of the Quincy subarea. Therefore, the requested added wells all satisfy the statutory condition to share the same body of public groundwater as administered by Ecology within the Quincy subarea.

The applicant proposes to carry out the changes requested over the next few years, with at least two years initially needed to complete construction of the means to deliver water. Segale Wells 3 and 4 are operational with pumps installed, however Segale Well 6 does not yet have the pump installed or power extended to the well site. Additional time is needed to bring electrical power to this well site, install the pump, connect the well to the irrigation system, and install the remaining system as necessary to make use of the 35 acres being transferred with the full flow rate capacity developed.

*ANALYSIS OF THE EFFECT OF THE PROPOSED TRANSFER ON OTHER WATER RIGHTS, PENDING CHANGE APPLICATIONS & INSTREAM FLOWS ESTABLISHED UNDER STATE LAW*

The applicant's consultant, a licensed professional engineer, provided a technical evaluation to the Board about the potential for impairment to existing rights with the requested change. The report also summarized other investigations in the area about the local aquifers.

According to the technical evaluation, prior work accepted by Ecology establishes that the three Segale wells withdraw, or are required to withdraw, from the Grande Ronde Basalt Formation. Prior work cited included the transfer of Permit No. G3-29381(A) to these same three well sites, Report of Examination dated June 16, 2009. The technical evaluation stated that Ecology has been managing the Grande Ronde aquifer (deeper) separately from the Wanapum basalt formation aquifer (shallower) in this area; and noted that both may fall within the Quincy subarea deep management unit. On this basis, the analysis of the effect of the proposed transfer on other water rights focused on other wells within the Grande Ronde aquifer.

In the area of the current water right location (Section 26, T. 21 N., R. 24 E.W.M.) the technical evaluation concluded there will be no impairment due to the change because the water right is being moved out of that area.

In the area of the transfer destination sites (Sections 19 and 20, T. 17 N., R. 28 E.W.M.), the technical evaluation found that there are few Grande Ronde formation wells. Wells to the north tend to be shallower because many of them intercept groundwater recharged around Potholes Reservoir. The nearest well to the Segale Well 6, that is owned by others, is slightly north and approximately 900 feet easterly, within the SW1/4SE1/4 of Sec. 18, T. 17 N., R. 28 E.W.M. This well supplies the Curlew Crest domestic water system, which is permitted for 8 homes under No. G3-29446P. The well supplying Curlew Crest is identified as being 630 feet deep and therefore will not be affected by the deeper Segale wells. In addition, the Curlew Crest water right permit is said to be from the shallow management unit of the Quincy subarea (subarea rules allow for waivers to the 200 feet of basalt penetration depth limit, provided the well does not penetrate the Grande Ronde formation). The technical evaluation found that there was little development to the east and no Grande Ronde wells within a mile of any of the Segale well sites. Washington State University was found to have a certificate of water right (Ground Water Certificate No. 4617-A) for a well located about 2800 feet southeasterly of Segale Well 4 (Well 4 is near E1/4 corner of Section 20). The Washington State University well is 502 feet deep according to the well report. On this basis the technical evaluation found that it would not be significantly affected. To the south, again no Grande Ronde wells were found within a mile. The few wells in that area were typically 300 feet deep or less. The technical evaluation found that permit exempt wells in Ecology records, throughout the surrounding areas, were not deep enough to penetrate the same pumping zones used by the requested wells, and would therefore not be impaired due to the transfer.

To the west, the technical evaluation noted a significant irrigation development owned by Skone & Connors Produce, Inc. which is supplied by several Grande Ronde aquifer wells and water rights. The nearest Grande Ronde well was identified as S & C Well No. 5 (Ecology Well Site No. 2A) located 215 feet South and 450 feet West from the NE corner of Section 24, within the NE1/4NE1/4 of Sec. 24, T. 17 N., R. 27 E.W.M. This is a 1995 feet deep well drilled in October 1999. Public record file information filed in April 2011 indicates the following about this well: static water level of 245 feet below land surface with a pumping (dynamic) water level of 512 feet below land surface. According to this information it is equipped with an access port and airline, and the pump is set at 682 feet below ground. The pumping level would therefore be (682-512=) 170 feet above the pump. This dynamic pumping level should reflect full use of the Skone & Connors Produce, Inc. permits because proof of appropriation notice was given to Ecology for all of the major permits.

The S & C Well No. 5 is the nearest deep well to the proposed transfer and is closest to Segale Well No. 6. It is 3250 feet away and nearly due west from Segale Well 6.

The technical evaluation included an estimate of water level lowering in the aquifer due to pumping the quantities being transferred using standard methods. The maximum predicted pumping effect was between 2 to 4 feet of drawdown at a 3250 feet distance of separation between the wells, assuming that all of the transferred water was taken from Segale Well 6.

The technical evaluation also considered the potential effect of the requested change on pending applications for change or transfer and instream flows established under state law. The technical evaluation noted the following: (1) The amount of water withdrawn from the aquifer on an annual basis will not be increased due to the change. (2) There is no indication that approval of the change would cause any undue effect or conflict with any other pending applications for change. (3) The aquifer is very deep, confined, and remote from any surface water source.



DEVELOPMENT SCHEDULE

Construction can be considered to have begun already, because of the existing wells and some irrigation system development at the transfer site. The applicant proposes to complete construction by December 1, 2014, unless extended by Ecology. The applicant proposes to make full beneficial use of water being transferred by December 1, 2016, unless extended by Ecology.

Other water rights appurtenant to the property (if applicable)

The technical evaluation included a review of other water rights appurtenant to the property. The technical evaluation found that the applicant holds one other water right permit which overlaps the place of use area requested for transfer. This is Permit No. G3-29381(A) issued to La Pianta LLC, and it authorizes the same three wells as requested by the subject transfer. (La Pianta LLC and La Terra Limited Partnership are companies under the same ownership as Segale Properties LLC). The place of use for G3-29381(A)P includes a total gross land area of 292 acres, but it authorizes irrigation of only 150 acres within that larger area. The subject change requests a place of use including a total gross land area of 90 acres within the same 292 acres (place of use will overlap a 90 acre area of G3-29381(A)P). The technical evaluation found that there would be no conflict between the two because the 35 water right acres being transferred will be in addition to the 150 water right acres, for a total of 185 irrigation acres authorized within the 292-acre combined places of use. The applicant informed the Board that it also contracts with the U.S. Bureau of Reclamation for irrigation water, but that the contracted lands do not overlap with the requested added place of use.

The technical evaluation reported that there are several other water right documents at the Frenchman Hills farm that authorize use from Segale Wells 3, 4 and 6. All existing state-issued documents relating to these wells are summarized in Table 2.

Table 2. Water Right Documents Sharing Sources and/or Place of Use with Transfer Rights

Document No.	Sources (Segale Nos.)	Maximum Flow Rate (gpm) [1]	Annual Volume (af/yr) [1]	Status / Comments
G3-29381(A)P	Wells 3, 4, 6	1500 gpm	525 af	Approved change for irrigation of 150 acres [2]--this is the only state-issued permit that overlaps the subject place of use (NE1/4 Sec. 19, also includes lands in Sec. 21). In name: La Pianta LLC.
CG3-25081C@2	Wells 3, 4, 6	900 gpm	280 af	Approved change--to increase irrigation acres under G3-25081C to 190 acres [2]. In name: La Terra Limited Partnership.
CG3-25083C@2	Wells 3, 4, 6	1700 gpm	510.9 af	Approved change--to increase irrigation acres under G3-25083C to 370 acres [2]. In name: La Terra Limited Partnership.
G3-25081C	Wells 3, 4	900 gpm	280 af	Certificate--underlying right to @2 change. In name: La Terra Limited Partnership.
G3-25083C	Wells 3, 4	1700 gpm	560 af	Certificate--underlying right to @2 change. In name: La Terra Limited Partnership.
CG3-25081C@3	n/a	n/a	n/a not yet issued	Pending change application to enroll a part of the water right into the state trust water right program. In name: La Terra Limited Partnership.
CG3-25083C@3	n/a	n/a	n/a not yet issued	Pending change application to enroll a part of the water right into the state trust water right program. In name: La Terra Limited Partnership.
G3-29477	Well 4 site and other site.	800 gpm requested	n/a not yet issued	This is a pending application and does not authorize any water use. The "other" well site is within NE1/4NW1/4 Sec. 20, T. 17 N., R. 28 E.W.M.; not related to 3, 4 or 6. In name: La Terra Limited Partnership.

Note [1]: The quantities are not all additive.

Note [2]: These acres, totaling 710 acres, are Family Farm water right acres under RCW 90.66. Acres under underlying certificates G3-25081C and G3-25083C are duplicative and do not add acres to this total.

The quantities authorized to be withdrawn from Wells 3, 4 and 6 are additive among G3-29381(A)P, CG3-25081C@2 and CG3-25083C@2, resulting in total authorized quantities of (1500+900+1700=) **4100 gpm** and (525+280+510.9=) **1315.9 af/yr**. If CG3-25083C@2 were to revert to the certificate quantities under G3-25083C, then this would add another (560-510.9=) 49.1 af/yr. The transfer request would add to these amounts, quantities of 350 gpm, 122.5 ac-ft/yr for seasonal irrigation of 35 acres, also to be withdrawn from Segale Wells 3, 4 and/or 6.

The technical evaluation compared these quantities to the installed capacities at the transfer site. Segale Well 3 has a 400 horsepower turbine pump with a reported peak production flow rate of 1,400 gpm. Segale Well 4 has a 350 hp turbine pump with a reported peak production flow rate of 1,600 gpm; total of 3,000 gpm. After Segale Well 6 is brought on line, the applicant expects that the three wells combined will have sufficient capacity to produce the full amount (4100+350=) of 4450 gpm.

As between G3-29381(A)P and the subject transfer (overlapping place of use issue), the relative amounts of water used under each can be accounted by the applicant and reported to Ecology as needed for administration of the rights.



*Public Interest (groundwater only)*

The proposed transfer is subject to RCW 90.44.100 and therefore cannot be detrimental to the public interest, including impacts on any watershed planning activities. During its review, the Board did not encounter any evidence to suggest that approval of the requested changes would be detrimental to the public interest, including impacts on any watershed planning activities.

*Tentative Determination*

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the Board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment. The Board's tentative determination was based upon the following findings:

The quantities provided on the front page of this report have been reduced because of a tentative determination that part of the annual volume and water right acres are not valid for transfer. This is because evidence was not provided of any beneficial use for those quantities and uses. Specifically, in the case of irrigated acres, no evidence was provided that more than 61.7 acres had ever been put to use within the certificate place of use.

Of the remaining quantities for which evidence of beneficial use was provided (dating to the 1999 irrigation season), the Board tentatively determined that due to a lack of water availability from 2000 to 2009, there had been no relinquishment due to non-use during those years.

For the period between 2000 and 2005 the Beaumonts' water availability problems were associated with their adjoining farm and wells which led the Beaumonts to pump water from Wells C and D to the west orchard. The Beaumonts beneficially used the water right during this time period, with such beneficial use outside of the authorized place of use onto adjacent property owned by the Beaumonts. The Board considers it less clear cut whether the Beaumonts' failure to use all of the water allowed by G3-28949C within its (east) authorized place of use should be excused under the water unavailability exemption. Some of the non-use can be explained by the failure of Well C beginning in 2004, and the inability of Well E, added in 2003, to produce meaningful amounts of water until its problems were finally managed in the year 2008. Well D was still producing significant amounts of water during this entire time period, and it is unknown whether Well D's production was sufficient to fully irrigate to the year 1999 amounts of use. The Board recognizes that the Beaumonts would likely have lost their west orchards had they not irrigated the west orchards using Wells C, D and E.

By 2006, the Beaumonts had received formal approval to supply one of their West Certificates from Well D. The Beaumonts did not have enough water available from Wells C, D and E to fully supply G3-28949C and either or both of the West Certificates. As explained in Pete Beaumont's declaration and the history given in this report, the Beaumonts were diligent in their efforts to fix the problem, and the problem appears to have been caused by factors outside of their reasonable control. The Beaumonts filed two water right change applications to make Well D a source for the West Certificates in 2005, and the first approval was granted in 2006, and the second approval was granted in 2007.

The Board considered the legal analysis provided by the applicant's legal counsel in the Legal Opinion dated October 10, 2012, which presented two main theories of protection from relinquishment.

The Board was provided with a year-by-year account of problems that the Beaumonts encountered with wells going dry, or performing poorly, water levels lowering and the steps the Beaumonts took to remedy such problems. The Board finds that the Beaumonts experienced water unavailability due to conditions outside their control. The Board finds that the plain reading of the law, the citations given, and the examples of Ecology practice support the idea that beneficial use in this case can be counted, but only when use did not exceed the 61.7 acres of irrigation shown in 1999. From the Pete Beaumont declaration, there were two years, possibly three, where the center pivot was not irrigated at all: 2002, 2003 and possibly 2004. The pivot acreage was 48.8 acres. During 2002 and 2003 the Board recognizes 48.8 acres of beneficial use on orchard ground in the west. The two certificates covering the west orchards issued for a total of 65 acres. Because orchard requires more water than the 1999 pivot cropping of wheat or potatoes, these two years can be considered as preserving the 1999 level of use by actual beneficial use. From the year 2000 to 2011 there are no time periods of five successive years of non-use, without excuse from relinquishment. The year 1999 level of beneficial use is preserved to the present without relinquishment.

*Geologic, Hydrogeologic, or other scientific investigations (if applicable)*

A technical report provided supplemental information for the application. The report included information and analysis identifying the source aquifer and estimating pumping effects on neighboring wells, and was prepared by the applicant's consultant (Reierson, 11/2/2012 report). This hydrogeologic analysis was referenced by the Board in a previous report subsection titled *Analysis of the effect of the proposed transfer on other water rights*.

A prior water right transfer was completed in 2009 under a cost-reimbursement contract, Ecology No. CG3-29381(A)P@1. This transfer was nearly identical to the subject transfer in terms of original well site location. Also, the transfer was approved to the same three wells as for the subject change request. The hydrogeologic investigation was therefore relevant to the subject change request. It concluded that the same body of public groundwater was present at both sites. Segale Wells 3



and 4 were deemed compatible for transfer, and Segale Well 6 was constructed to meet the specifications of the G3-29381(A) permit change. For consistency, the Board is including the same well construction requirements and other relevant provisions as were set forth in the 2009 decision, for Segale Wells 3, 4 and 6.

A third local investigation provided hydrogeologic data which informed the Board's decision. Proof of Appropriation information for the neighboring farm water rights was on file within public records for Permit Nos. G3-29162P, G3-26155(A)P and G3-26155(B). This information was compiled by Thomas R. Buchholtz, P.E. of Water Man Consulting for Skone & Connors Produce, Inc. It contained technical information about the pumping characteristics of the Skone & Connors Produce, Inc. wells. This information was used in reviewing aquifer conditions for potential impairment.

Other

The applicant has informed the Board that its ownership interest in irrigated agricultural lands subject to the Family Farm Water Act is less than 6,000 acres and in compliance with the Act (RCW 90.66). The subject transfer is also in compliance with the Act.

**The information or conclusions in this section were authored and/or developed by Tim Reierson.**

**CONCLUSIONS** [See WAC 173-153-130(6)(d)]

*Tentative determination (validity and extent of the right)*

The Board has tentatively determined that a valid transferable right exists in the following quantities: 800 gpm; with 230 af/yr for seasonal irrigation of 61.7 acres.

Of these amounts, the quantities requested for transfer are: 350 gpm, 122.5 af/yr for irrigation of 35 acres.

The remainder or difference in quantities is: 450 gpm, 107.5 af/yr for irrigation of 26.7 acres, which would remain in the trust water right enrollment identified with Ecology No. CG3-28949C@1.

*Relinquishment or abandonment concerns*

An annual volume of 50 af/yr and irrigation area of 18.3 acres do not have sufficient evidence of use and are tentatively determined by the Board as not being valid. The Board has tentatively determined that the failure to use any other quantities beside the aforementioned was not subject to relinquishment due to applicable exemptions.

*Hydraulic analysis*

The technical evaluation (Reierson, 11/2/2012 report) found that existing rights from the Grande Ronde aquifer will not be impaired due to the requested transfer, as discussed in a previous subsection of this report entitled *Analysis of the effect of the proposed transfer on other water rights*. Also, that the added wells will draw from the same body of public groundwater as the original wells.

*Consideration of comments and protests*

None.

*Impairment*

The requested change/transfer will not impair existing rights, including surface water rights.

*Public Interest*

The proposed change/transfer will not be detrimental to the public interest.

*Other*

The Board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision. The Board notes that the state legislature has amended the Family Farm Water Act (RCW 90.66) to allow ownership of 6,000 Family Farm water right acres. Consistent with this change in the law, the Family Farm permit provision is recommended to be changed to 6,000 acres.

**The information or conclusions in this section were authored and/or developed by Tim Reierson.**

**DECISION** [See WAC 173-153-130(6)(e)]

The Board's decision is to conditionally recommend approval of the requested change/transfer proposal, in full description as follows:

1(a). The recommended quantification of valid water rights are:

MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
800 gpm	230 ac-ft/yr	107.5 ac-ft/yr to preserve groundwater resources, and 122.5 ac-ft/yr for the seasonal irrigation of 35 acres.



1(b). The recommended quantification of transferable quantity totals, as requested by the subject application, are:

MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR	TYPE OF USE, PERIOD OF USE
350 gpm	122.5 ac-ft/yr	122.5 ac-ft/yr for the seasonal irrigation of 35 acres.

2. The source locations as changed are:

SOURCE				TRIBUTARY OF (IF SURFACE WATER)			
Six (6) Wells							
AT A POINT LOCATED: PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
RETAIN EXISTING:							
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222002	SE	NW	26	21 N	24 EWM	41	Grant
151222000	NE	NW	26	21 N	24 EWM	41	Grant
ADD PROPOSED:							
ptn 170034000	SE	NE	20	17 N	28 EWM	41	Grant
ptn 170034000	NE	NW	20	17 N	28 EWM	41	Grant
ptn 170033000	NW	NE	19	17 N	28 EWM	41	Grant

3. The place of use as changed is:

LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED
RETAIN EXISTING <u>In T. 21 N., R. 24 E.W.M.</u>  E1/2NW1/4 of Sec. 26, T. 21 N., R. 24 E.W.M.
ADD PROPOSED <u>In T. 17 N., R. 28 E.W.M.</u>  N1/2 and North 165 feet of S1/2NE1/4 of Sec. 19, T. 17 N., R. 28 E.W.M.

4. In conditionally approving the subject applications, the Board must by statute advise the applicant that they are not permitted to proceed to effect the proposed changes until a final decision is made by the director of the Department of Ecology.

**The information or conclusions in this section were authored and/or developed by Tim Reierson.**

**PROVISIONS** [See WAC 173-153-130(6)(f)]

*Conditions and Limitations*

1. The total authorized to be withdrawn from Segale Wells 3, 4 and 6 are additive among G3-29381(A)P, CG3-25081C@2, CG3-25083C@2, and CG3-28949C@2 resulting in total authorized quantities of 4450 gpm and 1438.4 af/yr for irrigation of 745 acres. Individual restrictions of each water right document apply. If CG3-25083C@2 were to revert to the certificate quantities under G3-25083C, then this would add another 49.1 af/yr. The trust water right component shall not be pumped from the original site wells during the period of trust enrollment, *see* CG3-28949C@1.
2. The amount of water granted is a maximum limit that shall not be exceeded and the water user shall be entitled only to that amount of water within the specified limit that is beneficially used and required for the actual crop grown on the number of acres and the place of use specified.
3. This authorization to make use of public waters of the state is subject to existing rights, including any existing rights held by the United States for the benefit of Indians under treaty or otherwise.
4. Nothing in this authorization shall be construed as satisfying other applicable federal, state, or local statutes, ordinances, or regulations.
5. All water wells constructed within the state shall meet the minimum standards for construction and maintenance as provided under R.C.W. 18.104 (Washington Water Well Construction Act of 1971) and Chapter 173-160 WAC (Minimum Standards for Construction and Maintenance of Water Wells).
6. An access port, airline and pressure gage shall be properly installed and maintained in working order.
7. That portion of this authorization relating to irrigation is classified as a Family Farm Certificate in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm – a geographic area including not more than 6,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 6,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm."



8. An approved measuring device shall be installed and maintained for the source(s) identified herein in accordance with the rule "Requirements for Measuring and Reporting Water Use", Chapter 173-173 WAC. Water use data shall be recorded weekly and maintained by the property owner for a minimum of five years, and the data shall be promptly submitted to Ecology annually during development of the project by January 31st of each calendar year typically.

9. The following information shall be included with each submittal of water use data: owner, contact name if different, mailing address, daytime phone number, Permit/Certificate No., source name, annual quantity used including units, maximum rate of diversion including units, weekly meter readings including units, peak weekly flow including units, Source number(s), purpose of use, well tag number, and period of use. In the future, Ecology may require additional parameters to be reported or more frequent reporting. Ecology prefers web-based data entry, but does accept hard copies. Ecology will provide forms and electronic data entry information.

10. Chapter 173-173 WAC describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements. Installation, operation and maintenance requirements are enclosed as a document entitled "Water Measurement Device Installation and Operation Requirements".

11. Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the records of water use that are kept to meet the above conditions, and to inspect at reasonable times any measuring device used to meet the above conditions.

12. Segale Well Nos. 3, 4 and 6 shall be constructed or reconstructed to meet the following minimum casing and sealing provisions:

- a. The minimum annular space for these wells shall be four (4) inches larger than the permanent casing.
- b. Sealing shall be placed from the bottom of the well to the top until undiluted sealing material returns to the surface.
- c. The casing requirement in these wells may be deepened if an interchange still occurs after casing and sealing is set.
- d. The owner shall contact the Eastern Regional Well Construction Coordinator a minimum of 14 working days prior to any well construction or reconstruction associated with these wells.
- e. Well number 3, if replaced or repaired, shall be sealed a minimum of 800 feet below ground surface.
- f. Well number 4, if replaced or repaired, shall be sealed a minimum of 800 feet below ground surface.
- g. Well number 6, if replaced or repaired, shall be sealed a minimum of 800 feet below ground surface.

13. At the transfer site at proof of appropriation, the permit holder shall provide an accounting of acres and quantities used to irrigate those acres associated specifically with CG3-28949C@2, distinguishing said use from irrigation under G3-29381(A)P, which overlaps the place of use.

*Mitigation (if applicable)*

No mitigation requirements apply.

*Construction Schedule (applies to 35 acre portion being transferred to Segale site)*

Construction has begun. Completion of Construction (wells and mainline installed and equipped with capability to deliver the permitted water) shall occur by December 1, 2014, unless extended by Ecology. Beneficial use of water within the parameters of this change shall occur by December 1, 2016, unless extended by Ecology.

**The information or conclusions in this section were authored and/or developed by Tim Reiersen.**

The undersigned Board commissioner certifies that he understands the Board is responsible "to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the Board's evaluation process, are thoroughly evaluated and discussed in the Board's deliberations. These discussions must be fully documented in the report of examination." [WAC 173-153-130(5)] The undersigned therefore, certifies that he, having reviewed the report of examination, knows and understands the content of this report and concurs with the report's conclusions.

Signed at Moses Lake, Washington

This 24th day of January, 2013.

14th day of February, 2013

W. Ron Baker

W. Ron Baker, Board Chairman  
Grant County Water Conservancy Board

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY). Ecology is an equal opportunity employer